

FARAD CONTINUATION SHEET.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION NO.776 OF 2005.

Office Notes, office Memoranda of Coram appearances, Court's orders or directions and Registrar's order.	Court's or Judge's order
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Mr.S.J.Khandalkar Adv. with Smt.Vaishali Mehta,Adv.for
the petitioner.
Mrs.B.H.Dangre,A.P.P. for the State.
Mr.A.B.Chaudhari,G.P. with Mr.S.B.Bangade, for
respondents nos.1 and 2.

CORAM: J.N.PATEL & B.P.DHARMADHIKARI,JJ.

DATE : 27th March, 2006.

1. Heard the learned counsel for the parties.

2. The petitioner is the widow of Ashok Choudhari, who came to be murdered on 9-8-1999 at Pitale Shastri High School, Laxminagar, Nagpur, which was run by Asha Education Society of whose Chairperson was Shri Satish Chaturvedi, presently a Minister in Government and Guardian Minister of Nagpur district.

3. It is the case of the petitioner that the investigation has not been done in impartial manner due to the fact that the institution, where the

petitioner's husband was working, is run by Shri Satish Chaturvedi and because of his political clout; he has got himself exonerated of the conspiracy, which led to the murder of her husband in the premises of the institution.

4. It is specifically stated that though the investigating agency interrogated the petitioner, her statement has not been recorded and she has been kept aside. It is specific allegation that at the behest of Shri Satish Chaturvedi, President of Asha Education Society, Laxminagar Nagpur, that her husband has been murdered and the then Investigating Officer late P.S.I. Shri R.R.Gavai was instrumental in tampering with the investigation of the case, which is obvious from the fact that the scene of occurrence panchanama dated 9-8-1999, which records the seizure of more than twelve documents, which could have prima facie shown the complicity of Shri Satish Chaturvedi, have been destroyed. Further, P.S.I. Shri R.R.Gawai was transferred to Mumbai and he died in an accident so as to eliminate all proofs of tampering the investigation of the case and, therefore, she has come to this court with the prayer that the case be got re-investigated by C.B.I., particularly from the angle as to the complicity of Shri Satish Chaturvedi and action should be taken against all persons who are found involved in the murder of her husband in accordance with law. The

petitioner has further prayed that respondents no.3 and 4 should take action against the concerned police officials involved in the investigation of the murder of Ashok Choudhari and respondent no.3 be directed to pay compensation to the petitioner for the murder of her husband in broad-day light on 9-8-1999, as the entire investigation carried out is nothing but farce to save the real culprits, who have been gone to the extent of tampering with the investigation by causing disappearance of material record, and also seeks police protection.

5. It is the respondents' case that after P.S.I.Gawai was transferred, the investigation was taken over by another Police Officer of Pratapnagar Police Station. On completing the investigation, they have filed charge sheet against the suspect on 28-10-1999 and the case was committed to the court of Sessions and trial is likely to commence in near future. It is submitted that during the course of investigation petitioner was never interrogated, as it was not felt necessary and further, the documents which were seized from the scene of occurrence, as recorded in the panchanama, were not found in the case diary which was handed over by P.S.I.Gawai, who had initially investigated the case and, therefore, these allegations against the respondents that the investigation was not fair is unfounded and it is merely based on suspicion.

6. It is further submitted that the petitioner has approached this court after delay of almost more than five years and, therefore, it deserves to be dismissed on the ground of delay and laches. It has been brought to our notice that an application filed before the trial court by the accused under Section 319 of Code of Criminal Procedure to implead Shri Satish Chaturvedi as one of the accused is rejected on 16-9-2005 by the trial court and the revision preferred against the said order was not prosecuted and came to be dismissed in default and it is thereafter the petitioner chose to approach this court.

7. We have given our anxious consideration to the facts placed before us by the petitioner as well as respondents. In our view, this is not the case which requires the investigation to be transferred to C.B.I., merely for the reason that P.S.I.Gawai, who has investigated the case, has tampered with the investigation and certain documents seized from the scene of occurrence have been destroyed.

8. This is not a case where the investigating agency has not been successful in filing charge sheet against the suspects against whom they have been able to collect the material. In so far as complicity of Shri Satish Chaturvedi is concerned, it is basically due

to apprehension of the petitioner drawn by way of inference from the alleged documents which have been destroyed. We say the documents are destroyed for the reasons that the investigating officer who took over the investigation did not find the documents in the case diary.

9. We are of the view that in order to ascertain the allegations made by the petitioner, it will be proper on the part of the investigating agency to record the statement of the petitioner and if on recording her statement it is revealed that further investigation is required to be undertaken, the investigating officer, after seeking permission of the trial court, may carry out further investigation of the case and file supplementary charge sheet. We make it clear that if the investigating officer does not feel it necessary to conduct further investigation after recording statement of the petitioner, he may file a report in the matter before the court of Sessions. On said report being submitted, the court of Sessions may give notice to the petitioner and after hearing the petitioner dispose of the report so filed, in accordance with law. We are disposing of this petition with the aforesaid directions only with a view that in future the petitioner should not have any grievance that whatever material or information is in her possession has not been placed before the court by the investigating agency, as a

result of which miscarriage of justice may occur.

10. With these directions and observations the petition stands disposed of.

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